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FACSIMILE TRANSMITTAL COVER SHEET

DATE: August 26, 2003 ATTORNEY DOCKET NUMBER: KCC 4757
PTO FACSIMILE NUMBER: (703) 746-3380

PLEASE DELIVER THIS FACSIMILE TO: Examiner Michael Bogart

THIS FACSIMILE IS BEING SENT BY: Kurt F. James

NUMBER OF PAGES: 16 INCLUDING COVER SHEET

TIME SENT: 4:15 OPERATOR'S NAME Carol Kanallakan

CERTIFICATION OF FACSIMILE TRANSMISSION

I hereby certify that this paper is being facsimile transmitted to the Patent and Trademark Office on the date shown below.

Carol A. Kanallakan
Typed or printed name of person signing certification

Carol A. Kanallakan 8-26-03
Signature Date

Type of paper transmitted: Letter to the Patent and Trademark
Office

Applicant's Name: Olson et al.

Serial No. (Control No.): 10/038,863 Examiner: Michelle Kidwell

Filing Date: December 31, 2001 Art Unit: 3761

Application Title: WETNESS INDICATOR FOR ALERTING A WEARER
TO URINATION

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KCC 4757
K-C 16,831
PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application of Olson et al. Art Unit 3761
Serial No. 10/038,863
Filed December 31, 2001
Confirmation No. 6380
For WETNESS INDICATOR FOR ALERTING A WEARER TO URINATION

August 26, 2003

VIA FACSIMILE TO 703-746-3380

TO THE COMMISSIONER FOR PATENTS,

SIR:

LETTER TO THE PATENT AND TRADEMARK OFFICE

Attached please find an Office action reportedly issued for the above-identified patent application.

The cover sheet contains the correct information for this application. However, the body of the action is directed to U.S. Patent Application Serial No. 10/090,221, as may be seen in the attached papers. Obviously, the Office action was inadvertently misdirected to the wrong case (i.e., the present application).

Accordingly, applicants of this application request that the Office action be withdrawn and a new action be issued for this application. Applicants further request that the time for responding be restarted from the issue date of the new Office action.

AUG-26-2003 TUE 04:11 PM SEMIGER POWERS

FAX NO. 2314342

P. 03

KCC 4757
K-C 16,831
PATENT

This is being directed to Examiner Bogart, the examiner for application Serial No. 10/090,221, at the request of Examiner Bogart.

Respectfully submitted,



Kurt F. James, Reg. No. 33,716

KFJ/cak
Attachment

Office Action Summary	Application No.	Applicant(s)
	10/090,221	DUNN ET AL.
	Examiner	Art Unit
	Michael G. Bogart	3761

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 04 March 2002.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-40 is/are pending in the application.
- 4a) Of the above claim(s) 29-40 is/are withdrawn from consideration.
- 5) Claim(s) 3-8 and 10-28 is/are allowed.
- 6) Claim(s) 1,2 and 9 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) The proposed drawing correction filed on _____ is: a) approved b) disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
 * See the attached detailed Office action for a list of the certified copies not received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
 a) The translation of the foreign language provisional application has been received.
- 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
 3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4.
- 4) Interview Summary (PTO-413) Paper No(s) _____.
 5) Notice of Informal Patent Application (PTO-152)
 6) Other: _____

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DETAILED ACTION***Election/Restriction***

Restriction to one of the following inventions is required under 35 U.S.C. § 121:

- I. Claims 1-28, drawn to a cart for collecting medical waste, classified in class 604, subclass 319.
- II. Claims 29-32, drawn to a cap, classified in class 220, subclass 235.
- III. Claims 33-40, drawn to a system comprising a cart with a canister and drainage station for cleaning the canister, classified in class 134/56R.

Inventions I and II are related as combination and subcombination. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the combination as claimed does not require the particulars of the subcombination as claimed because a snap-type inner cap could be used in place of the screw-type inner cap. The subcombination has separate utility such as use in any device requiring a removable inner cap with multiple ports.

Inventions III and I are related as combination and subcombination. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the combination as claimed does not require the particulars of the subcombination as

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claimed because the combined invention does not require a suction line. The subcombination has separate utility such as the cart may be used to collect medical waste in the absence of the drainage station.

Inventions III and II are related as combination and subcombination. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the combination as claimed does not require the particulars of the subcombination as claimed because a snap-type inner cap could be used in place of the screw-type inner cap. The subcombination has separate utility such as use in any device requiring a removable inner cap with multiple ports.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

During a telephone conversation with Blake Johnston on August 5, 2003 a provisional election was made with traverse to prosecute the invention of a cart, claims 1-28.

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

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Claim Objections

Claim 1 is objected to because of the following informalities:

In line 9, "a suction line" is recited, presumably the same suction line recited in line 5.

This can be clarified by replacing "a" in line 9 with --said--.

In line 10, "a vacuum source" is recited, presumably the same suction line recited in line 6. This can be clarified by replacing "a" in line 10 with --said--. Appropriate correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. § 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2 and 9 are rejected under 35 U.S.C. § 102(b) as being anticipated by Parker (US 4,863,446).

Parker teaches a cart (3) for collecting medical waste comprising a body (15) supported by a plurality of wheels (11);

a container (81) supported by said body (15) and having a drain port (53) therein;

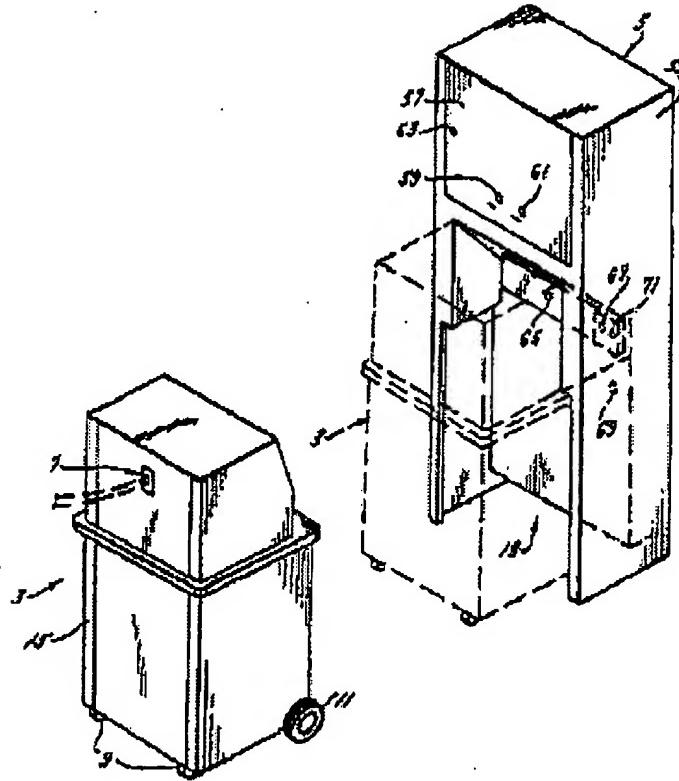
a cap positioned on said container (81) and including a patient port (31) and a vacuum port (7) said patient port (31) adapted to selectively communicate with a suction line (33) and said vacuum port (7) adapted to selectively communicate with a vacuum source (fig. 9); and

a liquid level detector (21) in communication with said container (81);

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whereby medical waste is collected in said container (81) through a suction line (33) connected to said patient port (31) when said vacuum port (7) is connected to a vacuum source (fig. 9) and the collected medical waste in the container (81) may be detected via the liquid level detector (21)(see fig. 1, below).



Regarding the container cap, the container (81) taught by Parker is designed to operate under a vacuum and inherently has some sort of cap to provide the sealed enclosure necessary to provide such a vacuum.

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Regarding the limitations concerning the container being adapted to selectively communicate with a drainage station, there is no physical structure recited in the claimed invention which is directed to a drainage station.

Regarding claim 2, Parker teaches a vacuum regulator (35).

Regarding claim 9, Parker teaches a filter (75) in communication with said vacuum port (7).

Allowable Subject Matter

Claims 16-28 are allowed.

Claims 3-8 and 10-15 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter:

Regarding claim 3, the closest art of record, Parker (US 4, 863,446) fails to teach a second container with vacuum and patient ports incorporated on a cap.

Regarding claim 4, Parker fails to teach a control panel upon a housing which contains a vacuum regulator.

Regarding claims 5-7 and 16-28, Parker fails to teach the multiple-piece cap containing vacuum and patient ports, and in the opinion of the Examiner, this is a non-obvious improvement.

Regarding claims 8 and 11-13, Parker fails to teach a cap incorporating a flushing port.

Regarding claim 10, Parker fails to teach a smoke plume filter.

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Regarding claim 14, Parker fails to teach a liquid capacitance sensor.

Regarding claim 15, Parker fails to teach a shelf which supports the container.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Bogart whose telephone number is (703) 605-1184. The examiner can normally be reached Monday-Friday.

In the event the examiner is not available, the examiner's supervisor, Weilun Lo may be reached at phone number (703) 308-1957. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9306 for regular communications and (703) 746-3380 for informal communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 306-0858.


Michael Bogart
August 6, 2003

600
GLENN K. DAVIS, JR.
PRIMARY EXAMINER

Interview Summary	Application No.	Applicant(s)	
	10/090,221	DUNN ET AL.	
	Examiner	Art Unit	
	Michael G. Bogart	3761	

All participants (applicant, applicant's representative, PTO personnel):

- (1) Michael G. Bogart. (3) _____.
 (2) Blake Johnston. (4) _____.

Date of Interview: 05 August 2003.

Type: a) Telephonic b) Video Conference
 c) Personal [copy given to: 1) applicant 2) applicant's representative]

Exhibit shown or demonstration conducted: d) Yes e) No.
 If Yes, brief description: _____.

Claim(s) discussed: 29-40.

Identification of prior art discussed: N/A.

Agreement with respect to the claims f) was reached. g) was not reached. h) N/A.

Substance of Interview including description of the general nature of what was agreed to if an agreement was reached, or any other comments: applicants elected claims 1-28.

(A fuller description, if necessary, and a copy of the amendments which the examiner agreed would render the claims allowable, if available, must be attached. Also, where no copy of the amendments that would render the claims allowable is available, a summary thereof must be attached.)

THE FORMAL WRITTEN REPLY TO THE LAST OFFICE ACTION MUST INCLUDE THE SUBSTANCE OF THE INTERVIEW. (See MPEP Section 713.04). If a reply to the last Office action has already been filed, APPLICANT IS GIVEN ONE MONTH FROM THIS INTERVIEW DATE, OR THE MAILING DATE OF THIS INTERVIEW SUMMARY FORM, WHICHEVER IS LATER, TO FILE A STATEMENT OF THE SUBSTANCE OF THE INTERVIEW. See Summary of Record of Interview requirements on reverse side or on attached sheet.

Examiner Note: You must sign this form unless it is an Attachment to a signed Office action.

 Examiner's signature, if required

Summary of Record of Interview Requirements

Manual of Patent Examining Procedure (MPEP), Section 713.04, Substance of Interview Must be Made of Record
 A complete written statement as to the substance of any face-to-face, video conference, or telephone interview with regard to an application must be made of record in the application whether or not an agreement with the examiner was reached at the interview.

Title 37 Code of Federal Regulations (CFR) § 1.133 Interviews

Paragraph (b)

In every instance where reconsideration is requested in view of an interview with an examiner, a complete written statement of the reasons presented at the interview as warranting favorable action must be filed by the applicant. An interview does not remove the necessity for reply to Office action as specified in §§ 1.111, 1.135 (35 U.S.C. 132).

37 CFR §1.2 Business to be transacted in writing.

All business with the Patent or Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

The action of the Patent and Trademark Office cannot be based exclusively on the written record in the Office if that record is itself incomplete through the failure to record the substance of interviews.

It is the responsibility of the applicant or the attorney or agent to make the substance of an interview of record in the application file, unless the examiner indicates he or she will do so. It is the examiner's responsibility to see that such a record is made and to correct material inaccuracies which bear directly on the question of patentability.

Examiners must complete an Interview Summary Form for each interview held where a matter of substance has been discussed during the interview by checking the appropriate boxes and filling in the blanks. Discussions regarding only procedural matters, directed solely to restriction requirements for which interview recordation is otherwise provided for in Section 812.01 of the Manual of Patent Examining Procedure, or pointing out typographical errors or unreadable script in Office actions or the like, are excluded from the interview recordation procedures below. Where the substance of an interview is completely recorded in an Examiners Amendment, no separate Interview Summary Record is required.

The Interview Summary Form shall be given an appropriate Paper No., placed in the right hand portion of the file, and listed on the "Contents" section of the file wrapper. In a personal interview, a duplicate of the Form is given to the applicant (or attorney or agent) at the conclusion of the interview. In the case of a telephone or video-conference interview, the copy is mailed to the applicant's correspondence address either with or prior to the next official communication. If additional correspondence from the examiner is not likely before an allowance or if other circumstances dictate, the Form should be mailed promptly after the interview rather than with the next official communication.

The Form provides for recordation of the following information:

- Application Number (Series Code and Serial Number)
- Name of applicant
- Name of examiner
- Date of interview
- Type of interview (telephonic, video-conference, or personal)
- Name of participant(s) (applicant, attorney or agent, examiner, other PTO personnel, etc.)
- An indication whether or not an exhibit was shown or a demonstration conducted
- An identification of the specific prior art discussed
- An indication whether an agreement was reached and if so, a description of the general nature of the agreement (may be by attachment of a copy of amendments or claims agreed as being allowable). Note: Agreement as to allowability is tentative and does not restrict further action by the examiner to the contrary.
- The signature of the examiner who conducted the interview (if Form is not an attachment to a signed Office action)

It is desirable that the examiner orally remind the applicant of his or her obligation to record the substance of the interview of each case. It should be noted, however, that the Interview Summary Form will not normally be considered a complete and proper recordation of the interview unless it includes, or is supplemented by the applicant or the examiner to include, all of the applicable items required below concerning the substance of the interview.

A complete and proper recordation of the substance of any interview should include at least the following applicable items:

- 1) A brief description of the nature of any exhibit shown or any demonstration conducted,
- 2) an identification of the claims discussed,
- 3) an identification of the specific prior art discussed,
- 4) an identification of the principal proposed amendments of a substantive nature discussed, unless these are already described on the Interview Summary Form completed by the Examiner,
- 5) a brief identification of the general thrust of the principal arguments presented to the examiner,
 (The identification of arguments need not be lengthy or elaborate. A verbatim or highly detailed description of the arguments is not required. The identification of the arguments is sufficient if the general nature or thrust of the principal arguments made to the examiner can be understood in the context of the application file. Of course, the applicant may desire to emphasize and fully describe those arguments which he or she feels were or might be persuasive to the examiner.)
- 6) a general indication of any other pertinent matters discussed, and
- 7) if appropriate, the general results or outcome of the interview unless already described in the Interview Summary Form completed by the examiner.

Examiners are expected to carefully review the applicant's record of the substance of an interview. If the record is not complete and accurate, the examiner will give the applicant an extendable one month time period to correct the record.

Examiner to Check for Accuracy

If the claims are allowable for other reasons of record, the examiner should send a letter setting forth the examiner's version of the statement attributed to him or her. If the record is complete and accurate, the examiner should place the indication, "Interview Record OK" on the paper recording the substance of the interview along with the date and the examiner's initials.

INFORMATION DISCLOSURE CITATION <i>(Use several sheets if necessary)</i>		Docket Number (Optional) P6228	Application Number 10/090,221
		Applicant(s) Dunn et al.	
		Filing Date 03/04/2002	Group Art Unit 3618

U.S. PATENT DOCUMENTS

EXAMINER INITIAL	REF	DOCUMENT NUMBER	DATE	NAME	CLASS	SUBCLASS	FILING DATE IF APPROPRIATE
MGB		6,180,000	01/30/2001	Wilbur et al.			
MGB		6,039,724	03/21/2000	Seifert et al.			
MGB		5,997,733	12/07/1999	Wilbur et al.			
MGB		5,901,717	05/11/1999	Dunn et al.			
MGB		5,885,240	03/23/1999	Bradbury et al.			
MGB		5,776,118	07/07/1998	Seifert et al.			
MGB		5,741,238	04/21/1998	Bradbury et al.			
MGB		5,242,434	09/07/1993	Terry			RECEIVED AUG 02 2002
MGB		4,957,491	09/18/1990	Parker			GROUP 3500
MGB		4,863,446	09/05/1989	Parker			
MGB		3,780,757	12/25/1973	Jordan			

FOREIGN PATENT DOCUMENTS

	REF	DOCUMENT NUMBER	DATE	COUNTRY	CLASS	SUBCLASS	Translation	
							YES	NO

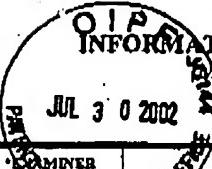
OTHER DOCUMENTS *(Including Author, Title, Date, Pertinent Pages, Etc.)*

MGB		Steris Corporation, Brochure for "SafeCycle 40," Hands-Off Fluid Waste Management, 1998.
MGB		Stryker Instruments, Brochure for "Vaporwave" Waste Management System.

EXAMINER	DATE CONSIDERED
MGB	8/15/2003

EXAMINER: Initial if citation considered; whether or not citation is in conformance with MPEP Section 609; Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

EXAMINER: Initial if citation considered, whether or not citation is in conformance with MPEP Section 609; Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

 INFORMATION DISCLOSURE CITATION <i>(use several sheets if necessary)</i> JUL 3 0 2002		Docket Number (Optional) P6228	Application Number 10/090,221
EXAMINER <i>MGB</i>	OTHER DOCUMENTS (Including Author, Title, Date, Pertinent Pages, Etc.)	Applicant(s) Dunn et al. Filing Date 03/04/2002 Governing Act/Rule 46 CFR 161.8	
	Waterstone Medical, Brochure for "Aqua-Box" Fluid Waste Treatment & Disposal.		
<i>MGB</i>	OSHA BBP Rule, "Occupational Exposure to Bloodborne Pathogens; Final Rule", 29 CFR Part 1910.1030, Federal Register 1991.		
<i>MGB</i>	OSHA BBP Directive, "Enforcement Procedures for the Occupational Exposure to Bloodborne Pathogens", 11/5/99.		
<i>MGB</i>	Sales et al., EPA Guidelines, "EPA Guide for Infectious Waste Management", May, 1986.		
<i>MGB</i>	Garner et al., CDC Guidelines, "Guideline for Handwashing and Hospital Environmental Control", 1985.		
EXAMINER 		DATE CONSIDERED <i>8/5/2003</i>	
<p>*EXAMINER: Initial if citation considered, whether or not citation is in conformance with MPEP Section 609; Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.</p>			

Notice of References Cited		Application/Control No.	Applicant(s)/Patent Under Reexamination	
		10/090,221	DUNN ET AL.	
Examiner		Art Unit		Page 1 of 1
Michael G. Bogart		3761		

U.S. PATENT DOCUMENTS

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Name	Classification
	A	US-6,263,887	07-2001	Dunn, James L.	134/22.1B
	B	US-6,588,436	07-2003	Dunn et al.	134/22.1B
	C	US-4,384,580	05-1983	Leviton, Jan	604/320
	D	US-4,836,921	06-1989	Hahn et al.	210/202
	E	US-5,019,056	05-1991	Lee et al.	604/257
	F	US-5,588,167	12-1996	Pahno et al.	5/606
	G	US-			
	H	US-			
	I	US-			
	J	US-			
	K	US-			
	L	US-			
	M	US-			

FOREIGN PATENT DOCUMENTS

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Country	Name	Classification
	N					
	O					
	P					
	Q					
	R					
	S					
	T					

NON-PATENT DOCUMENTS

*		Include as applicable: Author, Title Date, Publisher, Edition or Volume, Pertinent Pages
	U	
	V	
	W	
	X	

*A copy of this reference is not being furnished with this Office action. (See MPEP § 707.05(a).)
 Dates in MM-YYYY format are publication dates. Classifications may be US or foreign.